

# **EXHIBIT H**

**SUBLEASE**

THIS SUBLEASE is entered into by and between UNIVERSITY CIRCLE INCORPORATED, a not for profit corporation ("UCI") and the CLEVELAND BOTANICAL GARDEN, a not for profit corporation ("CBG").

WHEREAS, UCI entered into a lease agreement with the City of Cleveland, dated March 16, 1971, relating to certain premises located at East 108th Street and Wade Park Avenue in the City of Cleveland, Ohio;

WHEREAS, UCI wishes to sublease to CBG a portion of said premises (the "Sublease Premises") more particularly described on Exhibit "A" attached hereto;

WHEREAS, CBG desires to accept such sublease and to assume the obligations imposed upon UCI by its lease with the City of Cleveland, with respect to the Sublease Premises;

NOW, THEREFORE, in consideration of the covenants and agreements of the parties herein contained, the parties do hereby agree as follows:

1. UCI does lease to CBG the premises described on Exhibit "A" for the purpose of installing and maintaining a children's garden on said Sublease Premises. Should CBG, or any successor and assign of CBG, alter the use of the Sublease Premises to anything other than a children's garden, without the prior written consent of UCI, this sublease shall immediately terminate and be of no further force and effect.

2. The term of this sublease shall be from its date of execution through December 31, 2068.

3. CBG shall pay to UCI the sum of One Dollar (\$1.00) each calendar year as rent hereunder. In addition, CBG agrees to be fully responsible for any and all expenses related to maintenance and repair of the Sublease Premises, and to maintain the Sublease Premises in a neat and sightly condition, and in conformance with any requirements imposed by the City of Cleveland under its lease with UCI.

4. Any and all other expenses related to the Sublease Premises, including, but not limited to, water, electricity, snow removal, and landscaping, shall be solely and completely at the expense of CBG.

5. CBG may not make any improvement to the Sublease Premises without the prior written consent of UCI.

6. CBG shall not have the right to assign or sublet this sublease without the prior written consent of UCI.

7. In the event of default by CBG in the performance of its obligations hereunder, and provided CBG has not cured said default within thirty (30) days of receiving written notice from UCI specifying the default, then UCI shall be entitled to terminate this sublease. Provided, however, UCI shall have the right to terminate this sublease, without assigning any reason therefor, upon one year's advance written notice to CBG.

8. Lessor shall not be liable or responsible for any damage to any of the personal property of Lessee or any other person, however caused, unless resulting from Lessor's failure to fulfill a duty imposed by law or by this lease, it being the intent of the parties that Lessee shall maintain adequate insurance to cover such damage. In addition, Lessee shall, during the entire term hereof, keep in full force and effect, a policy of: (a) public liability and property damage insurance with respect to the Premises, and the business operated by Lessee including premises/operations, products, contractor, and personal injury, in which the limit shall not be less than one million (\$1,000,000) dollars of combined single limit; and (b) fire and extended coverage insurance in the amount equal to the full replacement value of the Premises. The policy shall name Lessor as additional insured as their interests appear and shall contain a clause that the insurer will not cancel or change the insurance without first giving the Lessor ten (10) days prior written notice. A copy of the policy or a certificate of insurance shall be delivered to Lessor.

IN WITNESS WHEREOF, the parties hereto have executed this Sublease by their  
duly authorized officers this \_\_\_\_ day of \_\_\_\_\_, 1998.  
Signed in the presence of:

UNIVERSITYCIRCLEINCORPORATED

Carol J. Kuschki  
Chandler P. Everett

By: John J. Goddard  
its: PROPERTY MANAGER

STATE OF OHIO                    )  
  ) ss:  
COUNTY OF                    )

Before me a Notary Public in and for said County and State, personally  
appeared the above named University Circle Incorporated by John J. Goddard,  
its Property Manager, who acknowledged that he/she did sign the foregoing instrument  
and that the same is the free act and deed of said corporation and the free act and deed of  
each of him/her personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official  
seal at Cleveland, Ohio, this 2 day of Sept., 1998.

Patricia L. Grimmer

NOTARY PUBLIC

PATRICIA L. GRIMMER, Notary Public  
State of Ohio, Medina County

Signed in the presence of: My Commission Expires, Aug. 22, 2001

CLEVELAND BOTANICAL GARDEN

Mark J. Druckenbrod  
MARK J. DRUCKENBROD  
DEPUTY DIRECTOR

By: B. [Signature]  
its: Executive Director

STATE OF OHIO                    )  
  ) ss:

COUNTY OF )  
*Cuyahoga*

Before me a Notary Public in and for said County and State, personally appeared the above named Cleveland Botanical Garden, by Brian Holley, its Executive Dir., who acknowledged that he she did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of each of him her personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 20 day of August, 1998.

*Elisabeth P. Truitt*

NOTARY PUBLIC

THIS INSTRUMENT PREPARED BY:

A. P. LEARY, ESQ.  
NEWMAN, LEARY & BRICE  
214 East Park Street  
Chardon, Ohio 44024  
(440) 286-9549

ELISABETH P. TRUITT  
Notary Public, State of Ohio, Cuy. Cty.  
My Commission Expires Nov. 2, 2002

PHONE 216-696-6080

FAX 216-696-5552

## GARRETT &amp; ASSOCIATES, INC.

SINCE 1890

*Civil Engineers · Land Surveyors*

2030 West 19th Street

Cleveland, Ohio 44113-3549

## SUBLEASE PARCEL "B"

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original 100 Acre Lot No. 395, bounded and described as follows:

Beginning on the southerly curb line of East Boulevard N.E. at its intersection with the westerly line of Sublease Premises "B", leased from University Circle Incorporated to the Garden Center of Greater Cleveland, dated September 14, 1988 (not recorded).

Course No. 1: thence South  $13^{\circ}-33'-43''$  West along said westerly line of Sublease Premises "B", a distance of 135.90 feet to an angle point therein;

Course No. 2: thence South  $54^{\circ}-06'-40''$  East along a southwesterly line of said Sublease Premises "B", a distance of 103.62 feet to an angle point therein;

Course No. 3: thence South  $27^{\circ}-27'-59''$  East along said southwesterly line of Sublease Premises "B", a distance of 113.64 feet to a northwesterly corner of Sublease Parcel A, leased from University Circle Incorporated to the Garden Center of Greater Cleveland, dated September 14, 1988 (not recorded);

Course No. 4: thence South  $14^{\circ}-22'-47''$  West along a northwesterly line of said Sublease Parcel A, a distance of 104.95 feet to an angle point therein;

Course No. 5: thence South  $10^{\circ}-02'-21''$  East along the southwesterly line of said Sublease Parcel A, a distance of 431.58 feet to a point.

Course No. 6: thence South  $79^{\circ}-57'-39''$  West, a distance of 59.67 feet to its intersection with a westerly curved line thereof;

Course No. 7: thence northeasterly along the arc of a circle deflecting to the left, 52.41 feet, said curved line having a radius of 160.00 feet and a chord which bears North  $17^{\circ}-44'-28''$  East a distance of 52.17 feet;

Course No. 8: thence North  $7^{\circ}-14'-00''$  West, a distance of 257.28 feet to a point;

Course No. 9: thence northwesterly along the arc of a circle deflecting to the left, 131.59 feet, said curved line having a radius of 147.79 feet and a chord which bears North  $70^{\circ}-03'-37''$  West a distance of 127.29 feet;

Course No. 10: thence northwesterly along the arc of a circle deflecting to the right, 126.82 feet, said curved line having a radius of 291.40 feet and a chord which bears North  $49^{\circ}-58'-41''$  West a distance of 125.82 feet;

Course No. 11: thence North  $21^{\circ}-36'-48''$  West, a distance of 13.04 feet to a point;

Course No. 12: thence northwesterly along the arc of a circle deflecting to the left, 72.26 feet, said curved line having a radius of 250.71 feet and a chord which bears North  $3^{\circ}-17'-41''$  West a distance of 72.01 feet;

Course No. 13: thence North  $11^{\circ}-55'-06''$  West, a distance of 54.25 feet to a point;

Course No. 14: thence northeasterly along the arc of a circle deflecting to the right, 64.93 feet, said curved line having a radius of 127.07 feet and a chord which bears North  $2^{\circ}-36'-23''$  East a distance of 64.21 feet;

Course No. 15: thence North  $19^{\circ}-09'-46''$  East, a distance of 80.04 feet to a point;

Course No. 16: thence northeasterly along the arc of a circle deflecting to the right, 45.40 feet, said curved line having a radius of 191.64 feet and a chord which bears North  $26^{\circ}-49'-37''$  East a distance of 45.30 feet;

Course No. 17: thence North  $33^{\circ}-41'-44''$  East, a distance of 35.22 feet to a point;

Course No. 18: thence North  $42^{\circ}-36'-00''$  East, a distance of 39.05 feet to a point;

Course No. 19: thence North  $47^{\circ}-24'-44''$  East, a distance of 17.97 feet to a point;

Course No. 20: thence North  $61^{\circ}-08'-49''$  East, a distance of 18.97 feet to a point;

Course No. 21: thence North  $0^{\circ}-19'-38''$  West, a distance of 6.55 feet to the southerly curb line of East Boulevard N.E., as aforementioned;

Course No. 22: thence southeasterly along said curb line and the arc of a circle deflecting to the right, 31.94 feet, said curved line having a radius of 360.00 feet and a chord which bears South  $87^{\circ}-47'-08''$  East a distance of 31.93 feet to the place of beginning, containing 94,785 square feet of land (2.1760 acres), according to a survey by Garrett & Associates, Inc., Registered Engineers and Surveyors, made in January, 1998, be the same more or less.

Bearings are to an assumed meridian and are used to denote angles only.